

NOTICE OF PROPOSED AMENDMENTS
TO
LOCAL RULES

Notice is hereby given that the Courts of Howard County propose to amend the Local Court Rules. The full text of all proposed amendments are attached.

Comments will be received from the bar and the public until May 1, 2005. All comments should be in writing, and addressed to William C. Menges, Jr., Judge, Howard Superior Court I, Courthouse, 104 North Buckeye Street, Room 216, Kokomo, Indiana 46901.

The proposals shall be adopted, modified, or rejected by July 15, 2005, and will be effective on January 1, 2006.

The Clerk of the Circuit Court is directed to post this Notice in her office, and on the website maintained by her.

Dated this 14th day of March, 2005.

LYNN MURRAY, JUDGE
HOWARD CIRCUIT COURT

WILLIAM C. MENGES, JR., JUDGE
HOWARD SUPERIOR COURT I

STEPHEN M. JESSUP, JUDGE
HOWARD SUPERIOR COURT II

DOUGLAS A. TATE, JUDGE
HOWARD SUPERIOR COURT III

CIVIL RULE 6

PREPARATION OF PLEADINGS, MOTIONS AND OTHER PAPERS

A. PRODUCTION. Pleading, motions, and other paper shall be on white paper.

~~Effective January 1, 1992, a~~All pleadings, copies, motions, and documents filed with the court, with the exception of exhibits and existing wills, shall be prepared on 8.5" x 11" paper. ~~Through December 31, 1999, such paper and records will be accepted on either 8.5" x 11" or 8.5" x 14" size paper with the exception of order, which shall be on 8.5" x 11" paper after the effective date of this rule.~~ The lines shall be double spaced except for quotations, which shall be indented and single spaced.

B. TITLES. Titles on all pleadings shall delineate each topic included in the pleading, e.g. where a pleading contains an Answer, a Motion to Strike or Dismiss, or a Jury Request, each shall be set forth in the title.

CIVIL RULE 7

FILINGS

A. PLEADINGS. The entry of appearance and the filing of pleadings or other matters not requiring immediate Court action shall be filed with the Clerk. The Judge may, however, permit papers to be filed with ~~him~~the Court, in which event ~~he shall note thereon~~ the filing date shall be noted thereon.

B. CHRONOLOGICAL CASE SUMMARY ENTRIES. Written pleadings presented for filing ~~must~~shall be accompanied by a proposed entry for the Chronological Case Summary. It shall contain the title and number of the case, the date, and exact entry to appear on the Chronological Case Summary. The proposed entry shall be signed by counsel.

C. COPIES TO SPECIAL JUDGES. When a Special Judge is selected, copies of all pleadings, motions, or briefs filed shall be mailed or delivered to the office of the Special Judge with certificate of forwarding same made a part of the original papers.

CIVIL RULE 8

CHANGE OF JUDGE

Purpose of Rule:

This rule is adopted to comply with the requirements of Trial Rule 79(h) of the Indiana Rules of Trial Procedure. It is intended to provide a means of selection of special judges insuring the effective use of all judicial resources within Administrative District 5, and includes each person eligible for appointment under Section (~~J~~) of Trial Rule 79.

Central Office Established:

There is established a Central Office for Keeping of records of appointment and selection of special judges for this District. The Central Office of this District shall be the Wabash Circuit Court.

~~This~~The Howard County Courts shall hereafter refer to the Central Office of this District whenever selection of a special judge is required under this rule. ~~This~~The particular Court shall accept from the Central Administrator the name of the individual to then be appointed as special judge.

The person serving as Administrator of the Central Office shall have the following responsibilities:

1. To maintain a list of persons qualified to serve as special judge under Section (~~J~~) of Trial Rule 79.
2. To take referrals from the several courts of this District, requesting appointment of a special judge.

3. To alternately and on a rotating basis appoint qualified judges from the list maintained for that purpose.
4. To notify the referring Court of the individual to be appointed under this Rule.

~~Current~~ Rotation Schedule:

The following shall be the rotation schedule ~~initially~~ used by the Central Administrator.

1. The Judge of Cass Superior Court, ~~currently the Honorable Douglas A. Cox.~~
2. The Judge of the Wabash Circuit Court, ~~currently the Honorable Daniel Vanderpool.~~
3. The Judge of the Howard Superior Court III, ~~currently the Honorable John Wood.~~
4. The Judge of the Fulton Superior Court, ~~currently the Honorable Rosemary Higgins Burke.~~
5. The Judge of the Howard Superior Court II, ~~currently the Honorable Stephen M. Jessup.~~
6. The Judge of the Fulton Circuit Court, ~~currently the Honorable Douglas Morton.~~
7. The Judge of the Howard Circuit Court, ~~currently the Honorable Lynn Murray.~~
8. The Judge of the Tipton Circuit Court, ~~currently the Honorable Dane Nash.~~

9. The Judge of the Miami Superior Court, ~~currently the Honorable Daniel Banina.~~
10. The Judge of the Howard Superior Court I, ~~currently the Honorable Dennis Parry.~~
11. The Judge of the Cass Circuit Court, ~~currently the Honorable Julian Ridlen.~~
12. The Judge of the Wabash Superior Court, ~~currently the Honorable Michael Sposeep.~~
13. The Judge of the Miami Circuit Court, ~~currently the Honorable Bruce Embry.~~
14. The Judge of Cass Superior Court II.

Administrative Fee:

Each ~~of the~~ court participating under this Rule shall pay each year the sum of Fifty Dollars (\$50.00) to the Central Administrator, payable directly to the Administrator by the 15th of September of each year.

Certification to Supreme Court:

In cases in which no judge is eligible to serve as special judge in a particular case, or where the circumstances of a case require it, the Court shall certify those circumstances to the Supreme Court, and that Court shall make appointment.

CIVIL RULE 10

MOTIONS

A. ORAL ARGUMENTS. The Court shall not hear oral arguments on motions unless required by the Indiana Rules of Procedure, requested by a party and allowed by the Court in its discretion, or at the request of the Court.

bB. BRIEFS AND MEMORANDA REGARDING MOTIONS. If a party desires to file a brief and memorandum in support of any motion, such brief or memorandum shall accompany or be filed simultaneously with the motion, and a copy served on the adverse party. If the adverse party desires to file a brief or memorandum, the adverse party shall file it as ordered by the Court.

C. ENLARGEMENT OF TIME. An initial written motion for enlargement of time pursuant to Trial Rule 6(B)(1) to respond to a claim shall be automatically allowed for an additional 30 days from the date of filing by a written order of the Court except in matters denominated in the pleadings as emergency in nature. Any motion filed pursuant to this rule shall state the date when such response is due and the date to which time is enlarged. The ~~motion~~motion must be filed on or before the original due date, or this rule is inapplicable.

CIVIL RULE 11

CONTINUANCES

A motion for a continuance, unless made during the hearing of the cause, shall be for cause, in writing and verified. A motion for continuance ~~must~~shall be filed as soon after the cause for continuance is discovered by the moving party. The attorney's signature on a request for a continuance is considered a certification that the client has been notified of the request.

The motion shall contain a statement concerning notification to opposing counsel or to pro se party:

1. That other counsel/party has been ~~cont~~acted and has no objection.
2. That other counsel/party has been contacted and does object.
3. That other counsel/party has not been contacted after diligent effort.

CIVIL RULE 11

CONTINUANCES

A motion for a continuance, unless made during the hearing of the cause, shall be for cause, in writing and verified. A motion for continuance ~~must~~shall be filed as soon after the cause for continuance is discovered by the moving party. The attorney's signature on a request for a continuance is considered a certification that the client has been notified of the request.

The motion shall contain a statement concerning notification to opposing counsel or to pro se party:

1. That other counsel/party has been ~~cont~~acted and has no objection.
2. That other counsel/party has been contacted and does object.
3. That other counsel/party has not been contacted after diligent effort.

CIVIL RULE 16

DOMESTIC RELATIONS

A. WORKSHEET - CHILD SUPPORT OBLIGATION. A copy of the worksheet provided in the Indiana Child Support Guidelines shall be submitted to the Court in each case in which the Court is asked to determine support, including cases in which agreed orders are submitted. The worksheets shall be signed by both parties under penalties of perjury.

B. SCHEDULE OF ASSETS AND LIABILITIES. A schedule of assets and liabilities, together with copies of any and all inventories and appraisals, ~~shall~~may be submitted to the Court prior to the beginning of a contested trial and copies served upon opposing counsel.

~~CIVIL RULE 16 (B)~~

~~INCOME AND PROPERTY DISCLOSURE~~

~~1. In order to avoid the need for the service and answering of interrogatories and/or requests for production in a dissolution of marriage action and/or other domestic relation action for the division of property, and in order to insure complete, uniform and reciprocal disclosure of income, property, and assets, each party to an action for divorce or separation, shall cause to be filed with the Court in which the action is pending, an Income and Property Disclosure Form which shall be from time to time designated and approved by the Howard County Courts. The Initiating Party shall file the disclosure form with 30 days of the date the action is filed and shall serve same upon the opposing party contemporaneous with filing. The opposing party shall have 30 days from the date of service or the initiating parties service of the disclosure form to file his or her disclosure form.~~

~~2. No discovery request may be served upon the opposing party unless and until such party seeking discovery has filed with the Court his or her Disclosure form. The filing and service of a prescribed Disclosure form shall be deemed to comply with any and all discovery requests issued by a party where the discovery sought is contained in and/or may be reasonably discerned from such disclosure form.~~

~~3. The Clerk shall cause to be issued, to the adverse party contemporaneous with the summons of initial notice of hearing in all dissolution of marriage or legal separation actions, a copy of the prescribed disclosure form together with the children coping with divorce brochure.~~

~~4. No final hearing may be scheduled and no decree of dissolution of marriage or legal separation shall be entered unless and until the prescribed Disclosure form is filed with the Court, except in cases where the parties are each represented by separate counsel and file with the court a waiver of such requirement.~~

CIVIL RULE 16 (C)

~~VISITATION ORDERS~~PARENTING TIME

1. ~~REASONABLE VISITATION~~PARENTING TIME. It is the express preference of the Howard Circuit and Superior Courts that ~~visitation~~parenting time be defined simply as “~~visitation~~occurring “at all reasonable times and places”. Such ~~visitation~~parenting time means that parties take into consideration the schedules and economic and geographic circumstances of each other as well as the schedules and activities of the children.

2. ~~VISITATION~~PARENTING TIME GUIDELINES. The ~~Howard Circuit and Superior Courts have prepared a suggested guidelines for visitation as well as general rules applicable to visitation orders~~Indiana Supreme Court has adopted Parenting Time Guidelines. These guidelines are designed for those situations when the parties are unable to resolve “~~visitation at reasonable times and places~~”“parenting time” without having specific guidelines. Consequently, if the parties cannot agree on ~~visitation terms~~parenting time, the ~~visitation-g~~Parenting Time Guidelines will be adopted unless the Court orders otherwise.

CIVIL RULE 20

APPELLATE RECORD

When an appeal is initiated by the filing of a ~~Praecipe for the record~~Notice of Appeal pursuant to Appellate Rule 29, and a transcript of all or any part of the evidence is sought for the record of ~~fn~~ appeal, counsel filing the ~~Praecipe~~Notice of Appeal shall deliver, contemporaneously and personally, a copy of the ~~Praecipe~~Notice of Appeal to the Court Reporter, advise the Court Reporter of the deadline for preparation of the records, and then make arrangements to pay the Court Reporter for preparation of the records.

CIVIL RULE 24

COURT REPORTER

Section One. Definitions. The following definitions shall apply under this local rule:

(1) A *Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.

(2) *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services.

Equipment shall include, but not be limited to telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.

(3) *Work Space* means that portion of the court's facilities dedicated to each court reporter including but not limited to actual space in the courtroom and any designated office space.

(4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure ~~7.2~~8.

(5) *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

(6) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.

(7) *Gap hours worked* means those hours worked that are in excess of the regular hours worked not in excess of forty (40) hours per work week.

(8) *Overtime hours worked* means those hours worked that are in excess of the regular hours worked ~~but not~~ and are in excess of forty (40) hours per work week.

(9) *Work Week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, ~~ie~~ eg. Sunday through Saturday, Wednesday through Tuesday, ~~or~~ Friday ~~and~~ through Thursday.

(10) *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Howard County.

(11) *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a

court.

(12) *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(13) *Private transcript* means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

Section Two. Salaries and Per Page Fees.

(1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours, or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours, i.e. Monetary compensation or compensatory time off regular work hours.

(2) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$~~34.50~~4.50; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcript.

(3) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$~~34.50~~4.50.

(4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$~~34.50~~00.

(5) That preparation of all transcripts shall be done outside of the work space and after regular work hours.

(6) Each court reporter shall report, at least on an annual basis, all transcripts fees received for the preparation of either county indigent, state indigent or private transcripts to the Indian Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the division of State Court Administration.

Section Three. Private Practice.

(1) If a court reporter elects to engage in private practice through the recording of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and court reporter shall enter into a written agreement which must, at a minimum, designate the following:

- (a) The reasonable market rate for the use of equipment, work space and supplies;
- (b) The method by which records are to be kept for the use of equipment, work space and supplies, and;

- (c) The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.
- (2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

APPELLATE RECORD

When an appeal is initiated by the filing of a ~~Praecipe for the record~~Notice of Appeal pursuant to Appellate Rule 29, and a transcript of all or any part of the evidence is sought for the record of fn appeal, counsel filing the ~~Praecipe~~Notice of Appeal shall deliver, contemporaneously and personally, a copy of the ~~Praecipe~~Notice of Appeal to the Court Reporter, advise the Court Reporter of the deadline for preparation of the records, and then make arrangements to pay the Court Reporter for preparation of the records.

CRIMINAL RULE 3

WITHDRAWAL OF APPEARANCE

In criminal cases, withdrawal of representation of a defendant, by an attorney, will be in compliance with IC 35-36-8-2. It will be considered after a hearing is conducted in open court, on record, in the presence of the defendant, unless another attorney has entered an appearance for the defendant.

Withdrawal of appearance may be allowed without compliance with the requirements of this rule, if the reason for withdrawal is the inability to locate and communicate with the defendant. In such event a warrant ~~shall~~may be issued for the arrest of the defendant. Notice of withdrawal is required as per Local Civil Rule 5.

CRIMINAL RULE 6

BAIL SCHEDULE

A. AMOUNTS: The following amounts shall be the amounts set for bail bonds in those courts which authorize the use of the schedule, unless otherwise ordered by the Court:

CLASS OF OFFENSE	BAIL AMOUNT
A. Murder	None
B. Habitual Offender	\$50,000.00
C. Class A Felony	\$75,000.00
D. Class B Felony	\$30,000.00
E. Class C Felony	\$15,000.00
F. Class D Felony	\$ 5 <u>10</u> ,000.00
G. Class A Misdemeanor	\$ 3 <u>8</u> ,000.00
H. Class B Misdemeanor	\$ 26,000 <u>500</u> .00
I. Class C Misdemeanor	\$ 15,500 <u>000</u> .00

EXCEPTIONS TO SCHEDULE

B. MULTIPLE CHARGES: If an arrest is made on more than one charge and there has been no prior judicial determination of bail, bail must be posted as to each charge. The amounts may be varied or determination stayed until court appearance by oral order of the judge, which order may be made by telephone.

C. RELEASE ON PROMISE TO APPEAR: The bail schedule shall not apply to cases in which a person may be released upon written promise to appear or the posting of other appropriate security including, but not limited to the following:

1. TRAFFIC OFFENSES: Pursuant to IC 9-4-1-131, a resident of Indiana charged with a **misdemeanor** regulating the use and operation of a motor vehicle other than one listed in IC 9-4-130.1 shall be released upon signing a promise to appear. The offenses excepted from this rule by IC 9-4-2-130.1 are as follows:

(a) an offense causing or contributing to an accident involving injury or death to any person; (b) a violation of IC 9-11-2; and (c) failure to stop in the event of an accident causing death, personal injuries, or damage to property. Residents of states which are members of the nonresident violator agreement, IC 9-5-1.1-1 *et seq.*, shall be treated in the same manner as residents of Indiana. Resident of other states shall be required to provide security as provided in IC 9-4-1-131(b) or, failing to do so, they shall post bail in the amount provided above.

Any person refusing to sign a promise to appear shall post bond.

2. CONSERVATION OFFENSES: Pursuant to IC 14-2-9-3 case of violation of snowmobile and fish and game laws may be dealt with by summons rather than arrest.

D. INTOXICATED PERSONS: If any person is arrested or charged involving intoxication or use of drugs and, in the opinion of the Sheriff or his department, cannot safely be released because of such condition, that person shall be held until the Sheriff or his department determines that the person would not constitute a danger to himself or others. This provision is

subject to the rule that all persons arrested who remain in jail shall be brought into court no later than the next day court is in session.

E. ARREST IN CIVIL PROCESS: The bail schedule applies only to arrest on criminal charges. On civil arrests (body attachments), the bond applicable is the amount stated by the court on the Body Attachment. Such bail is to be accepted in cash ~~only~~, or, where applicable, by credit card. The court will consider the cash bail posed to be the property of the person arrested and subject to attachment.

F. TEN PERCENT CASH: In all cases, unless a specific order to the contrary is made by the court when setting bail, the person, if a resident of the State of Indiana, may post cash in the amount ten percent (10%) of the bail. The court approved bond form must be used. If ten percent (10%) is posted, the paid sum shall be returned to the pay~~ee~~er at the close of the case with the following deductions:

- (a) administrative fee as per statute;
- (b) fine, fees, and costs;
- ©) restitution ordered by the court;
- (d) alcohol or drug program fees;
- (e) ~~contribution~~reimbursement to the ~~p~~Howard
County Public ~~d~~Defender Supplemental fund;
- (f) costs of extradition;
- (g) cost of housing in jail or other facility outside Howard County;
- (h) Probation User fees.

~~SUPERIOR COURT III CRIMINAL RULES~~

~~The Court incorporated herein the Local Criminal Rules adopted by the Howard Superior and Circuit Courts, insofar as they do not conflict with the following:~~

~~1). No plea agreements will be accepted by the Court after the plea cut-off date, as scheduled on each jury trial setting. No set cut-off date exists for Court trials. However, the Court will not accept a plea agreement if the witnesses are present and prepared for trial.~~

~~2). The following is the standard Bond scheduled for:~~

~~Class D Felony shall be \$5,000.00~~

~~Class A Misdemeanor shall be \$3,000.00~~

~~Class B Misdemeanor shall be \$2,000.00~~

~~Class C Misdemeanor shall be \$1,500.00~~

~~Bonds are to be collected on each count, up to a total Bond of \$5,000.00. Bonds may be released for payment of costs, fees and other expenses as ordered.~~